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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/033,832	03/03/1998	WALTER W. MOSHER JR.	PREDYN-42891	2572

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EXAMINER

GREEN, BRIAN

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 03/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/033,832

Applicant(s)

MOSHER ET AL.

Examiner

Brian K. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-25 and 27-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-25 and 27-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because it contains legal phraseology (means) on lines 3,5-7,9,11,12,14-16, which is improper. Correction is required. See MPEP § 608.01(b).

Claim Objections

Claims 19,20,28, and 29 are objected to because of the following informalities: In claims 19 and 28, line 2, "Disposable" should not be capitalized. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 21-25 and 27-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 21-25, the word "means" is preceded by the word(s) "circuit" and "antenna" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

In claim 22, line 3, "whose extremities" is confusing since it is not clear whether the applicant is referring to the extremities of the attachment means or the wristband. In claim 23, line 3, it is not clear whether the extremities of the attachment means are the same as the extremities of the wristband. In claim 23, lines 3-5 are repetitive with the language added to claim 21 which claim 23 depends upon. Claim 27 is indefinite since it is not clear whether the recess in the body is the

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same as the opening in the securement means defined in claim 25. In claim 28, line 15, there is no antecedent basis for "the remaining one". In claim 28, lines 14-16 are very confusing since it is not clear what the applicant is trying to claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19,21-23,25,27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Jong (U.S. Patent No. 4,612,719) in view of Hayes (U.S. Patent No. 4,718,374).

de Jong shows in figures 1-3 a disposable attachment means (6), a reusable securement means (3,4,7,8), a detection unit (2) embedded within the securement means, and each of the extremities of the attachment means pass through at least one opening (see figures 1 and 3) and the extremities overlap (see figures 1 and 3, left hand side, the left extremity passes over the right extremity). The securement means is considered to be a wristband since it could be worn on a wrist. The applicant fails to state that the extremities pass through the same opening. De Jong does not disclose the idea of making the detection unit in the form of a radio frequency identification circuit. Hayes shows in figures 1-5 a securement means comprising a body (22) having a radio frequency identification circuit device (60) embedded therein. In view of the teachings of Hayes it would have been obvious to one in the art to modify de Jong by replacing the detection unit with a radio frequency identification device since this would allow information from the responder to be sent out and received in an easier and faster manner.

Claims 20,24, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Jong in view of Hayes as applied to claims 19,23, and 28 above, and further in view of Tokunaga (U.S. Patent No. 5,168,281) or Yamamori (U.S. Patent No. 5,986,566).

De Jong in view of Hayes disclose the applicant's basic inventive concept except for placing the antenna in the attachment means/wristband. Tokunaga shows in figures 1-5 the idea of placing an antenna (3) within a wristband (2). Yamamori shows in figures 1-2 the idea of placing an antenna (121) within a wristband (112). In view of the teachings of Tokunaga or Yamamori it would have been obvious to one in the art to modify de Jong in view of Hayes by placing the antenna within the attachment means/wristband since this would allow the radio frequency identification circuit to send and receive information in a better manner.

Claims 19,21-23,25,27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al. (U.S. Patent No. 4,598,275) in view of Petersen (U.S. Patent No. 5,479,797) and de Jong (U.S. Patent No. 4,612,719).

Ross et al. shows in figures 1-6 a disposable attachment means (24), a reusable securement means (26), and a radio frequency identification device (20) embedded within the attachment means. Ross et al. does not disclose the idea of embedding the RFID device (20) within the securement means and the idea of passing the extremities of the band through and opening and having the extremities overlapped. Petersen shows in figures 1-6 a securement means (10) that includes openings in which the ends of the wristband pass through and overlap one another. In view of the teachings of Petersen it would have been obvious to one in the art to modify Ross et

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al. by replacing the securing means with the type taught by Petersen since this would help prevent the band from being removed and then reattached in an unauthorized manner, i.e. the band would have to be damaged in order to be removed which provides greater security. De Jong shows in figure 1 the idea of embedding a detection device (2) within a securing device. In view of the teachings of de Jong it would have been obvious to one in the art to modify Ross et al. by embedding the RFID circuit within the securing means since this would help to protect the circuit in a better manner and would allow the circuit to be reused.

Claims 20,24, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al. in view of Petersen and de Jong as applied to claims 19,23, and 28 above, and further in view of Tokunaga (U.S. Patent No. 5,168,281) or Yamamori (U.S. Patent No. 5,986,566).

Ross et al. in view of Petersen and de Jong disclose the applicant's basic inventive concept except for placing the antenna in the attachment means/wristband. Tokunaga shows in figures 1-5 the idea of placing an antenna (3) within a wristband (2). Yamamori shows in figures 1-2 the idea of placing an antenna (121) within a wristband (112). In view of the teachings of Tokunaga or Yamamori it would have been obvious to one in the art to modify Ross et al. by placing the antenna within the attachment means/wristband since this would allow the radio frequency identification circuit to send and receive information in a better manner.

Claims 19,21-23,25,27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen (U.S. Patent No. 5,479,797) in view of Hayes (U.S. Patent No. 4,718,374) and de Jong (U.S. Patent No. 4,612,719).

Petersen shows in figures 1-6 a disposable attachment means (20) and a reusable securement means (10). The extremities of the attachment means pass through openings in the securement means and overlap, see figures 4 and 5. Petersen does not disclose embedding a radio frequency identification device within the securing means. Hayes shows in figures 1-5 a securement means comprising a body (22) having a radio frequency identification circuit device (60) embedded therein. De Jong shows in figure 1 the idea of embedding a detection device (2) within a securing device. In view of the teachings of Hayes and de Jong it would have been obvious to one in the art to modify Petersen by embedding an RFID within the securing means since this would allow information to be stored on the band, the information changed as desired, and the information transmitted to a distant location in an easier and faster manner.

Claims 20,24, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen in view of Hayes and de Jong as applied to claims 19,23, and 28 above, and further in view of Tokunaga (U.S. Patent No. 5,168,281) or Yamamori (U.S. Patent No. 5,986,566).

Petersen in view of Hayes and de Jong disclose the applicant's basic inventive concept except for placing the antenna in the attachment means/wristband. Tokunaga shows in figures 1-5 the idea of placing an antenna (3) within a wristband (2). Yamamori shows in figures 1-2 the idea of placing an antenna (121) within a wristband (112). In view of the teachings of Tokunaga or Yamamori it would have been obvious to one in the art to modify Petersen in view of Hayes and

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de Jong by placing the antenna within the attachment means/wristband since this would allow the radio frequency identification circuit to send and receive information in a better manner.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Carroll and Tuttle et al. teach the use of devices that include RFID circuits therein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (703) 308-1011. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.


BRIAN K. GREEN
PRIMARY EXAMINER

bkg
March 22, 2003